SCHAPIRO DECLARATION EXHIBITS CONTINUED

Schapiro Exhibit 146

From: Courtney Nieman
Sent: Wednesday, January 03, 2007 2:38 AM
To: Michelena.hallie@mtvn.com; Morales, Cindy
Cc: Mark M. Ishikawa; Richard Kawasaki; Deana Arizala; Evelyn Espinosa; Cahan, Adam; Travis Hill
Subject: RE: Commercials & Promos

Michelena,

I confirmed with our Technical Group, that if one or more MTVN Business Unit had or has an account on YouTube that they are using for
"authorized posting" we can filter those infringements out before notice sending begins.

Courtney Nieman

From: Michelena.hallie@mtvn.com
Sent: Tuesday, January 02, 2007 6:23 PM
To: Morales, Cindy; Courtney Nieman
Cc: Mark M. Ishikawa; Richard Kawasaki; Deana Arizala; Evelyn Espinosa; Cahan, Adam
Subject: Re: Commercials & Promos

----- Original Message -----
From: Morales, Cindy
To: Hallie, Michelena; 'courtneyni@baytsp.com' <courtneyni@baytsp.com>
Cc: 'marki@baytsp.com' <marki@baytsp.com>; 'richardk@baytsp.com' <richardk@baytsp.com>; 'deanaa@baytsp.com' <deanaa@baytsp.com>; 'evelyn@baytsp.com' <evelyn@baytsp.com>; Cahan, Adam
Sent: Tue Jan 02 21:17:16 2007
Subject: Re: Commercials & Promos

I forwarded the approved links as we received them -- ofcourse there's always the possibility that the marketing groups within the diff channels are posting without us knowing.

----- Original Message -----
From: Hallie, Michelena
To: 'courtneyni@baytsp.com' <courtneyni@baytsp.com>; Morales, Cindy
Cc: 'marki@baytsp.com' <marki@baytsp.com>; 'richardk@baytsp.com' <richardk@baytsp.com>; 'deanaa@baytsp.com' <deanaa@baytsp.com>; 'evelyn@baytsp.com' <evelyn@baytsp.com>; Cahan, Adam
Sent: Tue Jan 02 20:46:45 2007
Subject: Re: Commercials & Promos

Cindy - you have the "white list" correct?

----- Original Message -----
From: Courtney Nieman <courtneyni@baytsp.com>
To: Hallie, Michelena; Morales, Cindy
Cc: Mark M. Ishikawa <marki@baytsp.com>; Richard Kawasaki <richardk@baytsp.com>; Deana Arizala <deanaa@baytsp.com>; Evelyn Espinosa <evelyn@baytsp.com>; Cahan, Adam
Sent: Tue Jan 02 20:42:44 2007
Subject: RE: Commercials & Promos

I just looked back through the correspondence for this very issue, and the only authorized posts from MTVN would include (be surrounded by)

the Comedy Central (Motherload) player. At that point the focus was on MySpace, so is there a list of Authorized Account names for YouTube? If so, forward them on to me and we will "white list" them out of the search/approve/decline process.

Courtney Nieman

From: Michelena.hallie@mtvn.com
Sent: Tuesday, January 02, 2007 5:12 PM
To: Courtney Nieman; Morales, Cindy
Cc: Mark M. Ishikawa; Richard Kawasaki; Deana Arizala; Evelyn Espinosa; Cahan, Adam
Subject: Re: Commercials & Promos

If they are commercials-trailers-promos for programs on the list they should be taken down unless they are from the addresses Cindy sent you that are clips we uploaded ourselves.

----- Original Message -----
From: Courtney Nieman <courtneyni@baytsp.com>
To: Hallie, Michelena; Morales, Cindy
Cc: Mark M. Ishikawa <marki@baytsp.com>; Richard Kawasaki <richardk@baytsp.com>; Courtney Nieman <courtneyni@baytsp.com>; Deana Arizala <deanaa@baytsp.com>; Evelyn Espinosa <evelyn@baytsp.com>
Sent: Tue Jan 02 20:08:31 2007
Subject: Commercials & Promos

Michelena,

A question came up from the group of people that are approving/declining the video clips; What about commercials/trailers/promos, should these be approved or declined?

At this point we are leaving this group of clips as declined. Let me know what you would like us to do with this content.

Courtney Nieman
Manager Client Services
BayTSP, Inc.
408-341-2314
AIM: BayTSPCanne
Have you checked out BayTSP's Piracy news web log? http://www.baytsp.com/weblog <http://www.baytsp.com/weblog>

The information contained in this email message may be confidential and is intended only for the parties to whom it is addressed. If you are not the intended recipient or an agent of same, please notify us of the mistake by telephone (408-341-2300) or email and delete the message from your system. Please do not copy the message or distribute it to anyone.

Schapiro Exhibit 147

From: "Gurney, Michelle" <Michelle.Gurney@mtvstaff.com>
Date: Sat, 10 Feb 2007 09:52:25 -0500
To: "Courtney Nieman" <courtneyni@baytsp.com>, "Solow, Warren" <Warren.Solow@viacom.com>, "Morales, Cindy" <Cindy.Morales@mtvstaff.com>, "Michelena Hallie" <michelena.hallie@mtvn>
Cc: "Cahan, Adam" <Adam.Cahan@mtvn.com>, "Mark M. Ishikawa" <marki@baytsp.com>, "Evelyn Espinosa" <evelyn@baytsp.com>, "Eric Antze " <erica@baytsp.com>
Subject: RE: MTV2AllThatRocks

i do not know for sure

Michelle Gurney
Manager, MTVN Music & Media Licensing
Business & Legal Affairs
t: 212.654.8559
NEW FAX: 201.553.6664
email: <mailto:michelle.gurney@mtvstaff.com> michelle.gurney@mtvstaff.com

---

From: Courtney Nieman [mailto:courtneyni@baytsp.com]
Sent: Fri 2/9/2007 6:59 PM
To: Solow, Warren; Morales, Cindy; Michelena Hallie; Gurney, Michelle
Cc: Cahan, Adam; Mark M. Ishikawa; Evelyn Espinosa; Courtney Nieman; Eric Antze
Subject: MTV2AllThatRocks

Is this one of your "approved" names: MTV2AllThatRocks

Courtney Nieman
Manager Client Services
BayTSP, Inc.
408-341-2314
AIM: BayTSPCanne
Have you checked out BayTSP's Piracy news web log?
http://www.baytsp.com/weblog

The information contained in this email message may be confidential and is intended only for the parties to whom it is addressed. If you are not the intended recipient or an agent of same, please notify us of the mistake by telephone (408-341-2300) or email and delete the message from your system. Please do not copy the message or distribute it to anyone.

Schapiro Exhibit 148

From: Courtney Nieman
Sent: Friday, February 09, 2007 9:24 PM
To: 'adam cahan'; 'Cindy Morales'; 'Michelena Hallie'; 'Michelle Gurney'; 'warren solow'
Cc: Evelyn Espinosa; Mark M. Ishikawa; Courtney Nieman; Deana Arizala
Subject: RE: bestweekevertv

Thanks - we'll add it to the approved list

Courtney Nieman

-----Original Message-----
From: Gurney, Michelle [mailto:Michelle.Gurney@mtvstaff.com]
Sent: Friday, February 09, 2007 1:21 PM
To: Courtney Nieman; Cahan, Adam; Morales, Cindy; Michelena Hallie; Solow, Warren
Cc: Evelyn Espinosa; Mark M. Ishikawa
Subject: RE: bestweekevertv

yes

-----Original Message-----
From: Courtney Nieman [mailto:courtneyni@baytsp.com]
Sent: Friday, February 09, 2007 4:19 PM
To: Cahan, Adam; Morales, Cindy; Michelena Hallie; Gurney, Michelle; Solow, Warren
Cc: Evelyn Espinosa; Mark M. Ishikawa
Subject: bestweekevertv

Is this one of your authorized posting accounts on YouTube?
bestweekevertv

Courtney Nieman
Manager Client Services
BayTSP, Inc.
408-341-2314
AIM: BayTSPCanne
Have you checked out BayTSP's Piracy news web log?
http://www.baytsp.com/weblog

The information contained in this email message may be confidential and is intended only for the parties to whom it is addressed. If you are not the intended recipient or an agent of same, please notify us of the mistake by telephone (408-341-2300) or email and delete the message from your system. Please do not copy the message or distribute it to anyone.

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Schapiro Exhibit 149

Subject: Re: Fw: Unauthorized Baytsp Take-down Notice
From: "Powell, Amy - Paramount" [redacted]
To: Perry, Alfred
Cc: Salter, John - Paramount; Derwin-Weiss, Nancy - Paramount; Martin, Scott - Paramount
Date: Wed, 26 Jul 2006 03:25:13 +0000

Al,

I look fwd to hearing back from you. As discussed in our meeting with BayTSP, they were strictly informed to never contact a third party without an OK from me, personally, either on the phone or in writing.

This instance violates our direction and I find it extremely concerning, not to mention his cavalier attitude.

amy

Amy Powell
Senior Vice President, Interactive Marketing
Paramount Pictures

[redacted]

-----Alfred Perry/PHE/MP/Paramount_Pictures wrote: -----

To: [redacted]
From: Alfred Perry/PHE/MP/Paramount_Pictures
Date: 07/25/2006 04:21PM
cc: John Salter/IS/Group/Paramount_Pictures@Paramount_Pictures, Nancy Derwin-Weiss/Business Affairs/MP/Paramount_Pictures@Paramount_Pictures, Scott Martin/Business Affairs/MP/Paramount_Pictures@Paramount_Pictures
Subject: Re: Fw: Unauthorized Baytsp Take-down Notice

Amy, I want to discuss with Scott (who is in meetings) and then discuss with you.

BayTSP was not provided the trailer and therefore assumed (incorrectly) that the footage was unauthorized pre-release content from the film.

I, like Nancy, expressed incredulity to Mark that BayTSp would not have called to just make sure (given the sensitivity to removal of clips).

----- Replied by Alfred Perry on 7/25/2006 4:13:54 PM ----------
Inactive hide details for From:Amy PowellFrom:Amy Powell

From:Amy Powell
07/25/2006 03:49 PM
To: Nancy Derwin-Weiss, Alfred Perry
cc: John Salter, Scott Martin
Subject: Re: Fw: Unauthorized Baytsp Take-down Notice

I have serious issues with this response. Al, can we discuss? I'm not comfortable with his business practices.

Inactive hide details for Nancy Derwin-WeissNancy Derwin-Weiss

From: Nancy Derwin-Weiss
Sent: 07/25/2006 03:43 PM
To: Alfred Perry

Cc: Amy Powell
Subject: Re: Fw: Unauthorized Baytsp Take-down Notice

I spoke to Mark about the incident. He wasn't exactly apologetic about the incident. He said that from their perspective, the Zack Braff footage appeared to be nothing more than pirated clips from the movie mashed together by an individual (whose name happened to be Zack Braff). I asked why they didn't put a call into us first before issuing the take-down notice since we just had the meeting about the very issue. He said that they didn't have any reason to believe that the material wasn't pirated as we hadn't given them the trailer in advance and in this instance, the footage looked pirated. He said that they were simply operating under the studio's directive to pull down unauthorized clips. He said he was going to direct Baytsp to stop searching Youtube for our content since it is creating too much of a headache for everyone. Frankly, I am not sure why he would do that since it may be that our unauthorized content appears there at a later date.

----- Replied by Nancy Derwin-Weiss on 7/25/2006 3:34:10 PM

Inactive hide details for From:Alfred PerryFrom:Alfred Perry

From:Alfred Perry
07/25/2006 03:15 PM
To: Scott Martin, John Salter, Nancy Derwin-Weiss, Amy Powell
cc:
Subject: Fw: Unauthorized Baytsp Take-down Notice

I am calling BayTSP now!
----- Forwarded by Alfred Perry/PHE/MP/Paramount_Pictures on 07/25/2006 03:14 PM -----

From:Nancy Derwin-Weiss
Sent by: Nancy Derwin-Weiss
07/25/2006 03:01 PM
To: Alfred Perry
cc: Amy Powell
Subject: Unauthorized Baytsp Take-down Notice

We have just learned that Baytsp issued a take-down notice to Youtube for a Zach Brack montage trailer for The Last Kiss. This is content we uploaded to Youtube in connection with our marketing efforts for the film. Obviously, we never authorized Baytsp to issue take-down notice for footage we had posted. I have a call into Mark Ishikawa to see how this could have happened. We thought we could not be clearer in our meeting that we did not want Baytsp to issue take down notices unless we explicitly requested them to do so.

Nancy

Schapiro Exhibit 150

From: Evelyn Espinosa
Sent: Friday, May 05, 2006 12:20 AM
To: Mark M. Ishikawa
Subject: RE: [text] FW: Paramount [Fwd: FW: Video Rejected: Copyright Infringement]

Ask courtney/sarah
But essentially someone in csm sent infringement notices - see also my previous email from just before I went to the dentist - youtube took down the videos within minutes of receipt - they should NOT have been sent - paramount btiched out youtube - youtube called us - ...

-----Original Message-----
From: Mark M. Ishikawa
Sent: Thursday, May 04, 2006 5:16 PM
To: Evelyn Espinosa
Subject: RE: [text] FW: Paramount [Fwd: FW: Video Rejected: Copyright Infringement]

no

-----Original Message-----
From: Evelyn Espinosa
Sent: Thursday, May 04, 2006 5:15 PM
To: Mark M. Ishikawa
Subject: RE: [text] FW: Paramount [Fwd: FW: Video Rejected: Copyright Infringement]

You got clarification on this yet?

-----Original Message-----
From: Mark M. Ishikawa
Sent: Thursday, May 04, 2006 4:56 PM
To: Sarah Bergman
Cc: Evelyn Espinosa; Courtney Nieman
Subject: FW: [text] FW: Paramount [Fwd: FW: Video Rejected: Copyright Infringement]

What happened here? I'm a bit confused

Mark

-----Original Message-----
From: heather gillette [mailto:heather@youtube.com]
Sent: Thursday, May 04, 2006 12:34 PM
To: Copyright-Compliance
Subject: [text] FW: Paramount [Fwd: FW: Video Rejected: Copyright Infringement]

Below is the email we received letting us know that one of the videos Baytsp had us take down was actually uploaded by paramount themselves:

http://www.youtube.com/watch?v=R0xxWL6vvPQ

We have restored the video.

-------- Original Message --------
Subject: FW: Video Rejected: Copyright Infringement
Date: Thu, 4 May 2006 14:58:07 -0400
From: XXXXXXXXXXXXXXXX
To: <copyright@youtube.com>

this complaint was obviously placed by some rightwing nut the video is a trailer for a new

HIGHLY CONFIDENTIAL

environmental film the website of the producers of the film even have a link to the trailer at YouTube

XXXXXXX

From: DMCA Complaints [mailto:copyright_counternotice@youtube.com]
Sent: Thursday, May 04, 2006 1:47 PM
To: chenson
Subject: Video Rejected: Copyright Infringement

<http://www.youtube.com>

Dear Member:

This is to notify you that we have removed or disabled access to the following material as a result of a third-party notification claiming that this material is infringing:

an inconvenient truth: http://www.youtube.com/watch?v=R0xxWL6vvPQ

Please Note: Repeat incidents of copyright infringement will result in the deletion of your account and all videos uploaded to that account. In order to avoid future strikes against your account, please delete any videos to which you do not own the rights, and refrain from uploading additional videos that infringe on the copyrights of others. For more information about YouTube's copyright policy, please read the Copyright Tips <http://www.youtube.com/t/howto_copyright> guide.

If you elect to send us a counter notice, to be effective it must be a written communication provided to our designated agent that includes substantially the following (please consult your legal counsel or see 17 U.S.C. Section 512(g)(3) to confirm these requirements):

(A) A physical or electronic signature of the subscriber.

(B) Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.

(C) A statement under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.

(D) The subscriberis name, address, and telephone number, and a statement that the subscriber consents to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if the subscriberis address is outside of the United States, for any judicial district in which the service provider may be found, and that the subscriber will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.

Such written notice should be sent to our designated agent as follows:

DMCA Complaints
YouTube, Inc.
PO Box 2053
San Mateo, CA 94401
Email: copyright@youtube.com

Please note that under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity was removed or disabled by mistake or misidentification may be subject to liability.

Sincerely,
YouTube, Inc.

To change or cancel your email notifications, go to your email options

HIGHLY CONFIDENTIAL BAYTSP 004174399

<http://www.youtube.com/my_profile_email>.

Copyright C 2006 YouTube, Inc.

abuse-copyright.tmpl

HIGHLY CONFIDENTIAL

Schapiro Exhibit 151

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From: Philip Cialdella
Sent: Wednesday, June 27, 2007 2:47 PM
To: Gregg Barron
Subject: RE: YouTube Malibu Rum Contest using Day O!

Provide details to the group please.

-----Original Message-----
From: Gregg Barron
Sent: Wednesday, June 27, 2007 9:46 AM
To: Philip Cialdella
Subject: RE: YouTube Malibu Rum Contest using Day O!

Yes, we licensed this.

Gregg Barron
Director, Licensing
Cherry Lane Music Publishing
6 East 32nd Street, 11th floor
New York, NY 10016
P (212) 561-3045
F (212) 447-6885
gbarron@cherrylane.com

-----Original Message-----
From: Philip Cialdella
Sent: Wednesday, June 27, 2007 9:28 AM
To: Gregg Barron
Subject: FW: YouTube Malibu Rum Contest using Day O!

Please advise.

-----Original Message-----
From: Philip Cialdella
Sent: Wednesday, June 27, 2007 8:59 AM
To: Keith Hauprich; Richard Stumpf
Cc: Mike Connelly
Subject: RE: YouTube Malibu Rum Contest using Day O!

Gregg,
Please advise.
-Phil

-----Original Message-----
From: Keith Hauprich
Sent: Wednesday, June 27, 2007 8:57 AM
To: Philip Cialdella; Richard Stumpf
Cc: Mike Connelly
Subject: YouTube Malibu Rum Contest using Day O!

Did we authorize this?

Highly Confidential CH00019822

Schapiro Exhibit 152

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, BOURNE CO., et al., on behalf of themselves and all others similarly situated,	)	
Plaintiffs,	)	
vs.	)	Case No. 07CV3582
YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC.,	)	
Defendants.	)	

VIDEOTAPE DEPOSITION OF GREGG BARRON

NEW YORK, NEW YORK

TUESDAY, SEPTEMBER 23, 2008

REPORTED BY:
ERICA RUGGIERI, CSR, RPR
JOB NO: 15379

91b957bf-7b69-48bf-9e34-bcdb7addec96

September 23, 2008

9:34 a.m.

VIDEOTAPED DEPOSITION OF GREGG BARRON, held at the offices of Mayer Brown, LLP, 1675 Broadway, New York, New York, pursuant to notice, before Erica L. Ruggieri, Registered Professional Reporter and Notary Public of the State of New York.

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A P P E A R A N C E S :

FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

PROSKAUER ROSE, LLP
BY: WILLIAM M. HART, ESQ.
ELIZABETH FIGUEIRA, ESQ.
1585 Broadway
New York, New York 10036-8299
Whart@proskauer.com
Efiguiera@proskauer.com

FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and GOOGLE, INC.:

MAYER BROWN, LLP
BY: REGINALD R. GOEKE, ESQ.
RICHARD S. PIANKA, ESQ.
1909 K Street, N.W.
Washington, D.C. 20006-1101
Rgoeke@mayerbrown.com
Rpianka@mayerbrown.com

ALSO PRESENT:
MANUEL ABREU, Videographer
KEITH HAUPRICH, Cherry Lane

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statements, what sorts of statements are you aware that BMI and ASCAP provide to Cherry Lane?

09:51:37 MR. HART: Same objections.

A. I don't know. That's not my domain.

Q. Other than licenses granted by your department and licenses granted

09:52:02 through BMI and ASCAP, is there any other entity, that you are aware of, that grants licenses to any use of Cherry Lane works?

MR. HART: Objection to form. Prior testimony.

09:52:17 A. We also have a print department. They issue licenses for musical notation, sheet music.

Q. Who is in charge of the print department?

09:52:45 A. John Stix.

Q. Do you know whether licenses issued by the print department would be recorded in some fashion by Cherry Lane?

MR. HART: Form.

09:53:05 A. I don't know how our print

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department maintains their records.

Q. Other than your department, BMI, ASCAP and the print department, are you aware of any other entity that licenses any use of Cherry Lane works?

MR. HART: Form, prior testimony.

A. Overseas we have some publishers who issue licenses on our behalf.

Q. Is there -- do you know approximately how many subpublishers there are?

MR. HART: Form.

Q. Do you know approximately how many subpublishers Cherry Lane employs overseas?

MR. HART: I'll maintain objection as to form, but please go ahead.

A. There are approximately 20 some-odd subpublishers.

Q. And when you say they issue licenses, do they issue mechanical licenses?

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G. Barron

MR. HART: Foundation.

A. It's not my area of expertise. As in most countries outside of the United States and Canada, societies like Harry Fox issue licenses, and we are not involved with the process on the U.S. side.

Q. Do you know whether any of the subpublishers issue synchronization licenses overseas?

MR. HART: Same objections.

A. Yes, I am.

Q. Yes, you do?

MR. HART: For your sake, do you want to just restate the question?

MR. GOEKE: Yeah.

Q. You indicated, "Yes, I am."

The question was, do you know whether any of the subpublishers issue synchronization licenses overseas?

A. Yes, they do.

Q. And are there any restrictions on the scope of licenses that those subpublishers issue overseas?

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recollection of having seen it. But if he sent me the link, I'm sure I watched it.

Q. And at the top there it says, "Thanks Selim, I don't recognize the song."

Does that suggest you watched it?

A. Yes, it does suggest I watched it.

Q. Now, what is Cherry Lane's relationship with Black Eyed Peas?

MR. HART: Form.

A. They are a client of ours.

Q. And does Cherry Lane typically manage all of Black Eyed Peas' works?

MR. HART: Objection to form. Legal conclusion, competence.

A. As far as I know, we administer most of their catalog, but I don't know if any of it falls outside of the scope of our agreement.

Q. And if something did fall outside the scope of your agreement, do you have any idea who would administer

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those rights?

A. I don't know.

Q. Now, at the top of this you indicate that you don't recognize the song, perhaps it was written for the commercial, and that you forwarded this to the band's manager to clarify.

Do you see that?

A. Yes, I see that.

Q. I take it you couldn't tell, just by looking at the link on YouTube, whether or not the work was, in fact, a licensed work?

MR. HART: Objection to form. Competence, prior testimony, foundation.

A. I didn't recognize the song upon watching the video.

Q. And so not recognizing the song, you couldn't tell whether it was licensed or not; is that right?

MR. HART: Same objections.

A. I wouldn't know.

Q. So as the director of licensing

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for Cherry Lane, which administers most of the catalog for Black Eyed Peas, upon looking at the YouTube link that includes
12:25:26 the Black Eyed Peas song, you wouldn't know whether that song was, in fact, licensed; is that right?

MR. HART: I'll object to the prior grounds, and also
12:25:31 mischaracterizes the witness's prior testimony.

Go ahead.

A. All I can confirm is that I didn't recognize the song that was used in
12:25:41 the video.

Q. And you didn't know whether or not it was, in fact, approved to be used in that fashion?

MR. HART: Objection,
12:25:48 foundation, competence, prior testimony.

A. I don't know whether or not it was.

Q. Okay. And then, if you turn to
12:26:11 the last page of this document, there's an

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e-mail that appears to be following up from the prior string, in which you write back to them, "Hi, Selim, management
12:26:21 confirmed that the song was written for the commercial. No need for any action on our part."

Do you see that?

A. I see that.

12:26:28 Q. So does that refresh your recollection that perhaps this work was one that was not being administered by Cherry Lane?

MR. HART: Objection to form.
12:26:38 Competence, foundation.

A. It confirms that the song was written for the commercial. I can't confirm whether or not we obtained rights as a result.

12:26:56 Q. Okay. And it confirms -- you say, "no need for action on our part." So it confirms that this posting on YouTube was, in fact, an authorized use of that song; is that correct?

12:27:04 MR. HART: Objection, form,

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G. Barron

legal conclusion, competence, foundation.

A. It confirms that the song was written for the commercial. What rights were granted to the ad agency, with respect to the broadcasting of the commercial, I can't speak to.

Q. So is it your testimony that even after you, as the director of licensing at Cherry Lane, spoke with the manager of Black Eyed Peas about a specific link on YouTube, you still could not determine whether or not that specific context was, in fact, licensed to be used in the fashion it was posted on YouTube?

MR. HART: I'm going to have to object to that, because it mischaracterizes the witness's testimony and the document.

A. I can only confirm that I confirmed that the song was written for use in the commercial. What was done -- what was licensed, with respect to the media in which that commercial was to be

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G. Barron

used, I can't speak to.

Q. So again, the answer, though, is you couldn't tell just by looking at this and talking to Black Eyed Peas management, whether or not the use on YouTube was, in fact, a licensed use?

MR. HART: I'm going to have to maintain my objection on the grounds of competence and the witness's prior testimony, which I think you are mischaracterizing.

A. Could you repeat it, please.

Q. Yes. So the answer is that you couldn't tell, by looking at this link on YouTube and talking to the Black Eyed Peas management, whether or not the use of this work on YouTube was, in fact, a licensed use?

MR. HART: Same objections. Competence, foundation, prior testimony.

A. I don't know whether or not it was.

(Barron Exhibit 11, two

91b957bf-7b69-48bf-9e34-bcdb7addec96

G. Barron

documents, Bates numbers CH00001540, and CH00075142 to 143, marked for identification, as of this date.)

12:30:28 Q. Mr. Barron, I'm showing you a document that's marked as Barron Exhibit 11. This is two documents that have been attached, one to the next. In terms of Bates numbers, they are

12:30:52 nonsequential. The first Bates number is CH00001540, and the next two are Bates number CH00075142 to 143.

MR. HART: So you are saying they didn't belong together as a

12:31:14 single document?

MR. GOEKE: They were not produced together as a single document.

MR. HART: I see. Thanks for

12:31:21 clarifying that.

Q. Mr. Barron, are you familiar with the song, My Humps?

A. Yes, I am.

Q. And did there come a time when

12:31:36 you viewed the song My Humps, as performed

91b957bf-7b69-48bf-9e34-bcdb7addec96

Schapiro Exhibit 153

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., COMEDY PARTNERS, COUNTRY MUSIC TELEVISION, INC., PARAMOUNT PICTURES CORPORATION, and BLACK ENTERTAINMENT TELEVISION LLC, Plaintiffs, vs. YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC., Defendants.	)	Case No. 1:07CV02103
THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, BOURNE CO., et al., on behalf of themselves and all others similarly situated, Plaintiffs, vs. YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC., Defendants.	)	Case No. 07CV3582

DEPOSITION OF LAUREN APOLITO
NEW YORK, NEW YORK
THURSDAY, January 7, 2010

REPORTED BY:
ERICA RUGGIERI, CSR, RPR
JOB NO: 18448

January 7, 2010

10:03 a.m.

VIDEOTAPED DEPOSITION OF LAUREN APOLITO, held at the offices of WILSON SONSINI GOODRICH & ROSATI, 1301 Avenue of the Americas, New York, New York, pursuant to notice, before before Erica L. Ruggieri, Registered Professional Reporter and Notary Public of the State of New York.

A P P E A R A N C E S:

FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and GOOGLE, INC.:

WILSON SONSINI GOODRICH & ROSATI, LLP
BY: MAURA REES, ESQ.
650 Page Mill Road
Palo Alto, California 94304-1050
(650) 493-9300
Mrees@wsgr.com

FOR THE HARRY FOX AGENCY AND THE WITNESS:

LIEFF CABRASER HEIMANN & BERNSTEIN
BY: DAVID S. STELLINGS, ESQ
ANNIKA K. MARTIN, ESQ.
250 Hudson Street, 8th Floor
New York, NY 10013-1413
(212) 355-9500
Dstellings@lchb.com

ALSO PRESENT:

MANUEL ABREU, Videographer

synchronization licenses on an ad hoc or a one-off basis?

A. No.

02:57:06 Q. Does Harry Fox Agency have any policies prohibiting its employees from using YouTube while at work?

A. No.

Q. Does HFA have any policies

02:57:44 specifically about whether its employees can watch videos on the Internet at work that infringe other people's copyrights?

A. No.

MS. REES: Exhibit 31.

02:58:20 (Apolito Exhibit 31, e-mail chain among Harry Fox employees regarding a YouTube video, marked for identification, as of this date.) .

02:58:51 (Witness reviews document.)

Q. Can you identify Exhibit 31?

A. This appears to be an e-mail chain among three or four Harry Fox employees regarding a particular YouTube

02:59:20 video.

APOLITO

Q. The first e-mail is from Jonathan Elsas. It says in this e-mail, "signature licensing agent."

02:59:31 Is that his title at Harry Fox Agency?

A. Yes.

Q. Who is Stephen Ebinger?

A. He's also a licensing or at that

02:59:46 time was a licensing agent and is now a collections agent.

Q. What is Joseph DiPalo's position?

A. Joseph is part of the licensing

03:00:02 department, and he also handles a lot of our metadata work.

Q. And what is Fred Beteille's title?

A. Fred is the director of business

03:00:15 affairs and licensing technology.

Q. And there's I guess three links to YouTube videos listed in this e-mail.

I take it you don't have any way of knowing whether any of the videos that

03:00:45 are located at these links include music

APOLITO

that infringe a composition copyright?

MR. STELLINGS: Object to the form of the question.

03:00:55 But you can answer.

A. I have no information.

Q. Is that something that you would be able to determine with more information?

03:01:13 MR. STELLINGS: Object to the form of the question.

A. It would be a multi-step process.

Q. And what steps are you thinking

03:01:27 of?

A. One would have to put in this URL, see if it's still operable, identify if there was a sound recording associated with it and then conduct research to

03:01:44 determine if it was licensed.

MS. REES: Exhibit 32.

(Apolito Exhibit 32, e-mail from Fred Beteille to Maurice Russell, providing two links, marked

03:02:58 for identification, as of this

date.)

(Witness reviews document.)

Q. Can you identify Exhibit 32?

03:02:50 A. It is an e-mail from Fred Beteille to Maurice Russell that provides two links.

Q. And one of the links appears to be a YouTube.com link?

03:03:08 A. Correct.

Q. You told me before, I think, what Maurice Russell's title was, and I forgot.

Could you remind me?

03:03:20 A. Sure. He's VP of licensing and collections.

Q. And who is Warren Adler?

A. Warren Adler is a former employee. He was in our publisher

03:03:34 services department.

Q. And, again, with respect to the YouTube link that's in this e-mail, I take it you don't have any information about whether the video at this link includes a

03:03:59 musical composition that infringes a

Schapiro Exhibit 154

.

From: Brian Bradford
Sent: Friday, June 08, 2007 8:50 PM
To: Copyright Service
Cc: Jerry Martin; Daniel Hill; 'Daniel Girard'; Doherty, Kevin M.
Subject: RE: [C#154263444] DMCA Counter Notification - from Universal Music Group - re: Cal IV Entertainment, LLC

Attachments: Complaint (Filed copy).pdf

Complaint (Filed copy).pdf (1 ...

Heather:

Please find the attached Complaint filed in federal court in the Middle District of Tennessee. At this time, CAL IV will not object to these particular URLs remaining on your website until further clarification of ownership or licensing rights can be obtained.

Regards,

BRIAN K. BRADFORD | Director, Administration Cal IV Entertainment, LLC | 808 19th Avenue South, Nashville, TN 37203
Tel: 615.321.2700 | Fax: 615.321.3222 | eMail: brian.bradford@cal4.com Visit us on the web: www.cal4.com

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-----Original Message-----
From: Copyright Service [mailto:copyright@youtube.com]
Sent: Thursday, May 31, 2007 4:41 PM
To: Brian Bradford
Subject: Re: [C#154263444] DMCA Counter Notification - from Universal Music Group - re: Cal IV Entertainment, LLC

Dear Brian,

We received the attached counter-notification in response to a complaint you filed with us. As described in the United States Digital Millennium Copyright Act (DMCA) 17 U.S.C. 512, by this email, we're providing you with the counter-notification and await your notice (in not more than 10
days) that you've filed an action seeking a court order to restrain the counter-notifier's allegedly infringing activity. Such notice should be submitted by replying to this email. If we don't receive notice from you, we will reinstate the material to YouTube.

If you have any questions, please contact copyright@youtube.com.

Sincerely,

Heather
The YouTube Team

Original Message Follows:

From: "Sanchez, Angela" <angela.sanchez@umusic.com>
Subject: DMCA Complaint: UMG Counter Notification
Date: Thu, 31 May 2007 11:06:42 -0700

The attached 4 Copyright Infringement notices were sent to Universal Music Group byCal IV Entertainment, LLC for the videos listed below.

Shooter Jennings - Steady At The Wheel: Closed Captioned:
http://www.youtube.com/watch?v=mOtTZ2Ks_48

McBride And The Ride - Sacred Ground:
http://www.youtube.com/watch?v=06bHooOCXps

Tracy Lawrence - It's All How You Look At It: Closed Captioned:
http://www.youtube.com/watch?v=v9zWnAeIG4Y

Gary Nichols - Unbroken Ground: Closed Captioned:
http://www.youtube.com/watch?v=_ajRyqcWtXg

Universal Music Group has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material. Universal Music Group does have rights to these videos pursuant to physical licenses for Shooter Jennings, McBride and the Ride, and Tracy Lawrence and a contractual license for Gary Nichols in his recording agreement. Universal Music Group would like to request that the videos remain on youtube.com and that the copyright infringement notices not be associated with the Universal Music Group account.

Universal Music Group consents to the jurisdiction of Federal District Court for the judicial district in which the following address is
located:

Universal Music Group
2220 Colorado Avenue
Santa Monica, CA 90404

Angela Sanchez
Sr. Director of Marketing/Digital
Universal Music Group Distribution

Confidential CAL00000748

Schapiro Exhibit 155

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY PARTNERS, COUNTRY MUSIC. TELEVISION, INC., PARAMOUNT PICTURES CORPORATION, and BLACK ENTERTAINMENT TELEVISION, LLC, Plaintiffs, vs. YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC., Defendants.	NO. 07-CV-2203
THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, BOURNE CO., et al., on behalf of themselves and all others similarly situated, Plaintiffs, vs. YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC., Defendants.	NO. 07-CV-3582

VIDEOTAPED DEPOSITION OF DANIEL HILL
SAN FRANCISCO, CALIFORNIA
FRIDAY, MARCH 13, 2009

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CLR
JOB NO. 16594

da61e1e5-6ea7-44c9-99e8-f0f188c7a1b0

MARCH 13, 2009

9:33 A.M.

VIDEOTAPED DEPOSITION OF DANIEL HILL, WILSON SONSINI GOODRICH & ROSATI, LLP, One Market Street, Spear Tower, San Francisco California, pursuant to notice, and before, ANDREA M. IGNACIO HOWARD, CLR, RPR, CSR License No. 9830.

da61e1e5-6ea7-44c9-99e8-f0f188c7a1b0

A P P E A R A N C E S:

FOR THE PLAINTIFFS CAL IV ENTERTAINMENT:

GIRARD GIBBS LLP

By: CHRISTINA C. SHARP, Esq.

601 California Street, 14th Floor

San Francisco, California 94108-2819

(415) 981-4800 chc@girardgibbs.com

FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and GOOGLE, INC.:

MAYER BROWN LLP

By: GREGRORY FRANTZ, Esq.

ILANA D. GOLANT, Esq.

1675 Broadway

New York, New York 10019-5820

(212) 506-2423 gfrantz@mayerbrown.com;

igolant@mayerbrown.com

ALSO PRESENT: Lou Meadows, Videographer.

---oOo---

da61e1e5-6ea7-44c9-99e8-f0f188c7a1b0

HILL

Q And what do you know now?

MS. SHARP: Form.

THE WITNESS: That it did not help Carey Ott, and it was not properly licensed.

MR. FRANTZ: Q. What do you mean by "it was not properly licensed"?

A I don't believe we issued a license, and I don't believe that we can control the -- the content over YouTube at this time, and that is detrimental to Cal IV.

Q And when you say you don't believe it helped Carey Ott, why do you say that?

A Because his -- his content was posted. It was intended for possible promotion. His album did not get the exposure that was intended, and subsequently we had to drop Carey from our roster.

Q And do you attribute the circumstances you just described to the posting of his works on YouTube?

MS. SHARP: Form.

THE WITNESS: I don't believe that it helped Carey.

MR. FRANTZ: Q. Do you believe it harmed Carey?

A Yes.

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11:39:08 Q How so?

11:39:09 A It made the music available for free on YouTube and dis-incentivized people from going out and buying Carey's music.

11:39:29 Q Did you ever attempt to substantiate that with an analysis of any data?

11:39:42 A No.

11:39:42 Q Other than the Carey Ott situation, were there other instances in which you allowed content to remain on YouTube?

11:39:51 MS. SHARP: Form.

11:39:52 THE WITNESS: There was a situation where Universal Music or Universal Records, I believe, requested that YouTube repost several videos on YouTube.

11:40:19 We chose not to fight Universal on the posting of those videos. It's arguable whether they had the right. But at the time, we felt that we did not want to enter into a dispute with Universal with those videos posted.

11:40:47 But I would not permit them to be posted now.

11:40:52 MR. FRANTZ: Q. Can you explain what you mean by it was arguable whether Universal had the right to post the videos on YouTube?

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11:41:01 A Well, Universal apparently claimed that they
11:41:06 had the right to post those videos, and I would
11:41:08 dispute that.
11:41:11 Q Your position is they did not have the right
11:41:14 to post the videos?
11:41:15 A That is correct.
11:41:15 Q And do you understand what their position is
11:41:20 as to the right to post the works on YouTube?
11:41:23 MS. SHARP: Form.
11:41:29 THE WITNESS: No. Only their insistence to
11:41:32 post the videos, as they did in their request.
11:41:44 MR. FRANTZ: Q. Did they give you any
11:41:45 evidence that they, in fact, had a right to post the
11:41:47 works on YouTube?
11:41:50 A Not that I can recall.
11:41:51 Q And yet you allowed them to post the works on
11:41:55 YouTube without taking them down. Why is that?
11:41:57 A Well, we had taken them down. We -- we had
11:42:00 them taken down. That's why they requested for them
11:42:04 to be reposted.
11:42:06 I made a judgment call not to dispute their
11:42:20 claim at that time, because I didn't feel that it was
11:42:31 in our best interests at that time to dispute the
11:42:37 claim.

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HILL

Q Why did you believe it was not in your best interests to dispute the claim?

MS. SHARP: Caution the witness as to the attorney-client privilege.

THE WITNESS: It was something that we had discussed with our attorneys and made a determination.

MR. FRANTZ: Q. And you say you wouldn't reach the same decision if a similar circumstance were permitted -- were to occur in the present; is that correct?

MS. SHARP: Form.

THE WITNESS: That's correct.

MR. FRANTZ: Q. And why is that?

A Because I -- I think that there are -- there are too many issues that still need to be worked out in regards to licensing work on YouTube, and I think it's detrimental to -- to us to allow works to be up there. That's it.

Q What are those issues that need to be worked out?

A Control over our works and -- and compensation for the creators for the works.

Q Weren't you aware of those issues when you had decided to allow Universal to keep the clips up on

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11:44:37 YouTube?

11:44:39 A Yes.

11:44:39 Q Has your opinion on those issues changed as a result of the experience with Universal?

11:44:56 A My opinions have not changed in regards to the infringement of YouTube and the songs being present on YouTube. This is something that we are working out.

11:45:18 Our licenses and contracts are something that are changing and must change in light of the new technology. And -- and we are in the process of reviewing all of our licenses and contracts, and we'll adjust them in counsel with our attorneys as we see it's to our benefit and the benefit of our songwriters.

11:46:10 Q And when you say the licenses and contracts are something that "must change in light of the new technology," what do you mean by that?

11:46:19 A Anything that's left for interpretation, such as digital rights, streaming, downloading, obviously these issues are evolving as we speak. And we need to be able to address the issues of theft and infringement on our rights and decide what the best course of action is as these technological innovations

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11:47:03 evolve.

11:47:04 Q Do you believe that your current licenses
11:47:07 sometimes leave ambiguity as to whether a work can be
11:47:10 posted on YouTube?

11:47:30 A I believe that in the past licenses have not
11:47:46 anticipated developments such as YouTube, and our
11:47:56 contracts are evolving. Certain entities may
11:48:08 interpret certain -- certain aspects of licenses and
11:48:18 assume that they allow certain uses which were not
11:48:31 intended by Cal IV.

11:48:34 Q I think we're -- we're out of tape now, so
11:48:38 why don't we take a break.

11:48:40 A All right.

11:48:40 THE VIDEOGRAPHER: This marks the end of
11:48:42 videotape number one.

11:48:43 Off the record.

11:48:44 The time is 11:47 a.m.

11:48:46 (Recess taken.)

12:04:37 THE VIDEOGRAPHER: On the record.

12:04:38 This marks the beginning of videotape number
12:04:40 two in the deposition of Daniel Hill on March 13,
12:04:40 2009.

12:04:46 The time is 12:03 p.m.

12:04:49 Please continue.

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12:04:49 MR. FRANTZ: Q. Mr. Hill, you testified earlier that your company is in the process of reviewing all of its licenses to account for new technology such as YouTube; correct?

MS. SHARP: Form.

THE WITNESS: Yes.

MR. FRANTZ: Q. When did that process of review begin?

A It is ongoing.

Q And when did it begin?

A It began when we realized that there are problems with YouTube and our rights on YouTube.

Q And when was that?

A That would be around the time that we filed -- a bit before we filed for the class action lawsuit.

Q Are you referring to the Tennessee action?

A Yes.

Q And when you say you "realized there are problems with YouTube and our rights on YouTube," what did you mean by that?

A We realized that, excuse me, there were and are works up on YouTube that are our copyrights that we are not being compensated for.

da61e1e5-6ea7-44c9-99e8-f0f188c7a1b0

Schapiro Exhibit 156

"Blue Jean Blues"

DVD SYNCHRONIZATION LICENSE AGREEMENT

License Agreement entered into this 16 day of April, 2008, between **EAGLE ROCK ENTERTAINMENT,** whose address is 22 W. 38th Street, New York, N.Y. 10018 Attn: Melissa Roy (hereinafter referred to as "Licensee") and **STAGE THREE MUSIC (U.S.) INC. d/b/a STAGE THREE SONGS (ASCAP)** whose address is 1616 Vista del Mar, 2nd Fl., Los Angeles, CA 90028 (hereinafter referred to as "Publisher").

Publisher, to the extent indicated herein, **owns and/or controls 100%** of the worldwide copyrights in and to the musical Compositions hereinafter designated. Licensee is a potential user of the Compositions in the production and distribution of the DVD Program below, and desires to use said Compositions as part of the Program. Publisher is willing to grant to Licensee a synchronization license, which will permit Licensee, to use the Compositions for the purposes contemplated, subject to the terms and conditions of this License. Upon the terms, conditions and covenants herein, it is agreed:

1.	COMPOSITION(S):	**SEE ATTACHED SCHEDULE**
2.	WORDS & MUSIC BY:	SEE ATTACHED SCHEDULE
3.	TITLE ("Program" or "DVD"):	**"ZZ TOP-LIVE FROM TEXAS"/# EV30252-9/EVBRD 33316-9**
4.	ARTIST:	**ZZ TOP**
5.	TERRITORY:	**UNITED STATES AND CANADA**
6.	TERM:	The term shall commence upon the release date of the Program, **June 24, 2008** and shall continue for a period of ten (10) years.
7.	USE & TIMING:	Up to 1 full performance use of each of the Compositions, and for use behind bonus material, up to 3 uses each of the four (4) Compositions listed on the attached Schedule
8.	ADVANCE:	[redacted]

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Highly Confidential

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17. **INTEGRATION** This agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to agreements made and to be wholly performed therein.

IN WITNESS WHEREOF, the parties have caused the foregoing to be executed as of the date first above written.

EAGLE ROCK ENTERTAINMENT

By: _____

STAGE THREE MUSIC (U.S.) INC.

By: _____

Highly Confidential

An Authorized Signatory

An Authorized Signatory

Highly Confidential

SCHEDULE A

ZZ TOP-LIVE FROM TEXAS DVD:

COMPOSITION	WRITER(S)	STAGE THREE SHARE
GOT ME UNDER PRESSURE	Gibbons/Hill/Beard	100%
WAITIN' FOR THE BUS	Gibbons/Hill	100%
JESUS JUST LEFT CHICAGO	Gibbons/Hill/Beard	100%
I'M BAD I'M NATIONWIDE	Gibbons/Hill/Beard	100%
PINCUSHION	Gibbons/Hill/Beard	100%
CHEAP SUNGLASSES	Gibbons/Hill/Beard	100%
PEARL NECKLACE	Gibbons/Hill/Beard	100%
HEARD IT ON THE X	Gibbons/Hill/Beard	100%
JUST GOT PAID	Gibbons/Ham	100%
ROUGH BOY	Gibbons/Hill/Beard	100%
BLUE JEAN BLUES	Gibbons/Hill/Beard	100%
GIMME ALL YOUR LOVIN'	Gibbons/Hill/Beard	100%
SHARP DRESSED MAN	Gibbons/Hill/Beard	100%
LEGS	Gibbons/Hill/Beard	100%
TUBE SHAKE BOOGIE	Gibbons/Hill/Beard	100%
LA GRANGE	Gibbons/Hill/Beard	100%
BARB-B-Q	Gibbons/Ham	100%
TUSH	Gibbons/Hill/Beard	100%

TRACKS USED AS BACKGROUND TRACK TO BONUS MATERIAL

GIMME ALL YOUR LOVIN'	Gibbons/Hill/Beard	100%
WAITIN' FOR THE BUS	Gibbons/Hill/Beard	100%
JESUS JUST LEFT CHICAGO	Gibbons/Hill/Beard	100%
JUST GOT PAID	Gibbons/Ham	100%

"Back up w/ "Blue Jean Blues" song file

Highly Confidential

Schapiro Exhibit 157

From: Mary Ann Slim
Sent: Wednesday, April 08, 2009 1:51 PM
To: Steve Lewis; Alan Kading
Subject: "Stuck In The Middle With You" - C1000 Supermarket Ad in Holland - Possible Soundalike

Importance: High
Hi Steve & Alan

Please see below and watch/listen to the YouTube link. I'm not convinced we would win this one but please let me know if you would like CP Masters to pursue this and get a musicologist involved which we would have to pay for.

Mary Ann

Mary Ann Slim
Head of Film, TV & Media
Stage Three Music Ltd
13A Hillgate Street
London W8 7SP
Tel: + 44 20 7792 6060

www.stagethreemusic.com

From: Bobby Sukhraj [mailto:bobby.sukhraj@ctm.eu.com]
Sent: 08 April 2009 13:41
To: Mary Ann Slim
Subject: C1000 - Stuck In the Middle

Dear Mary-Ann,

Please find enclosed a youtube link to the TV commercial of a big supermarket chain in Holland called 'C1000'. As you will notice they have very cleverly arranged music sounding very obviously like 'Stuck In the Middle' to accompany the visuals. We think it might be worthwhile to involve a musicologist and eventually take the appropriate steps. What do you think?

Please also let us know if you want to contact Joe Egan about this or want us to do it for you.

Here is the link: http://www.youtube.com/watch?v=GVosC9liN1g

Best,
Bobby

Bobby Sukhraj
CP Masters BV

P.O. Box 1088 - 1200 BB - Hilversum | Marathon 11 - 1213 PG - Hilversum | The Netherlands
T [redacted] F +31 (0)35 6474049 M [redacted] E bobby@ctm.eu.com

NOTICE: The contents of this e-mail is subject to a disclaimer. Please refer to http://ctm.eu.com/emaildisclaimer for details.

Schapiro Exhibit 158

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY PARTNERS, COUNTRY MUSIC TELEVISION, INC., PARAMOUNT PICTURES CORPORATION, and BLACK ENTERTAINMENT TELEVISION, LLC, Plaintiffs, vs. YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC., Defendants.	NO. 07-CV-2203
THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, BOURNE CO., et al., on behalf of themselves and all others similarly situated, Plaintiffs, vs. YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC., Defendants.	NO. 07-CV-3582

VIDEOTAPED DEPOSITION OF CHAD HURLEY
SAN FRANCISCO, CALIFORNIA
WEDNESDAY, APRIL 22, 2009

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CLR
JOB NO. 16789

APRIL 22, 2009

9:08 a.m.

VIDEOTAPED DEPOSITION OF CHAD HURLEY,
held at the offices of SHEARMAN & STERLING,
525 Market Street, San Francisco, California,
pursuant to notice, before ANDREA M. IGNACIO
HOWARD, CLR, CCRR, RPR, CSR License No. 9830.

A P P E A R A N C E S:

FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

JENNER & BLOCK, LLP

By: SCOTT WILKENS, Esq.

1099 New York Avenue, NW, Suite 900

Washington, D.C. 20001

(202) 639-6000 swilkens@jenner.com

FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

By: JOHN C. BROWNE, Esq.

1285 Avenue Of The Americas

New York, New York 10019

(212) 554-1533 johnb@blbglaw.com

FOR THE PLAINTIFFS VIACOM INTERNATIONAL INC.:

SHEARMAN & STERLING LLP

By: STUART J. BASKIN, Esq.

599 Lexington Avenue

New York, New York 10022-6069

(212) 848-4000 stuart.baskin@shearman.com

A P P E A R A N C E S (Continued.)

FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and GOOGLE, INC.:

MAYER BROWN, LLP
By: ANDREW H. SCHAPIRO, Esq.
BRIAN WILLEN, Esq.
1675 Broadway
New York, New York 10019-5820
(212) 506-2279 aschapiro@mayer.com

ALSO PRESENT:

GOOGLE
By: ADAM L. BAREA, Litigation Counsel
1600 Amphitheater Parkway
Mountain View, California 94043
(650) 214-4879 adambarea@google.com

KEN REESER, Videographer.

---oOo---

09:58:21 professional was actually there with authorization,
09:58:24 and we found by trying to make decisions like these,
09:58:27 that we were making mistakes, just as our users would
09:58:29 make mistakes.
09:58:31 MR. BROWNE: Q. Well, at this time, at least
09:58:33 June of 2005, you as the CEO of YouTube believed that
09:58:37 the right way to go about keeping copyrighted material
09:58:40 off of the website was to make some judgment calls
09:58:42 about professional content and reject it if you
09:58:45 thought that it was copyrighted; is that correct?
09:58:46 MR. SCHAPIRO: Objection; foundation.
09:58:47 THE WITNESS: We didn't -- we didn't know.
09:58:50 We were trying to do what was right.
09:58:54 MR. BROWNE: Q. And at this time, you
09:58:54 thought the thing that was right was to review videos,
09:58:58 and, if they looked like they were up on the website
09:59:01 without authorization, to remove them; isn't that
09:59:03 right?
09:59:04 A We didn't know the process.
09:59:06 Q Well, whether you knew it or not, this was
09:59:08 the judgment that you had reached as of June of 2005;
09:59:11 right?
09:59:12 MR. SCHAPIRO: Objection; asked and answered.
09:59:15 THE WITNESS: Yeah, like I said, I -- that's

09:59:18 what I stated.

09:59:28 MR. BROWNE: Q. Now, is it -- is it fair to say that in this Exhibit 2 that you were making a judgment as the CEO of YouTube that the user OCRocks311 was not authorized to post the entire season finale of Charmed on the YouTube website?

09:59:49 A I mean, like I was trying to -- to state before, I mean, we wanted -- if -- if it was authorized or not, it was -- it was something that looked professional, and we wanted personal videos to -- to be what the site's about. That's what the site's about today, and it's -- you know, down the road, you know, we -- we may, perhaps, you know, some day offer premium content, but that's not what we were concentrating on at that time.

10:00:13 Q Well, at -- at this time, were -- were your -- was you or anyone else at YouTube going through the site and removing all professional content?

10:00:23 A I can't -- I can't recall what we were doing at the time.

10:00:25 Q At -- do you recall at any point in time anyone at YouTube doing that?

10:00:32 A I -- I don't know.

10:00:33 Q You can't recall one way or the other?

10:00:35 A I can't.

10:00:41 Q Now, a little bit further down on that -- on -- on that e-mail, you say, "When it blatantly comes from a network or movie, we shouldn't mess around."

10:00:49 What did you mean when you wrote that?

10:00:57 A Again, kind of us assuming, you know, because it was professional, it shouldn't be there and it -- it wouldn't resonate with what the site's about. That, you know, for us to be good business partners, we'd have to try to do what's right, I mean.

10:01:17 Q And -- and you felt that the thing that was right was to -- to take down from the website stuff that you felt was a copyrighted material that was up there without authorization from the copyright owner?

10:01:31 A Well, it was professional and we didn't know if it had authorization, but like I was saying, we came to realize that us doing it or users doing it, we're making many mistakes; where, in fact, studios and networks and advertisers, everyone was -- was uploading content. We didn't know who had the rights.

10:01:49 Q Did you ever learn -- well, strike that.

10:01:52 Did you ever -- do you know whether you or

Schapiro Exhibit 159

UNITED STATES DISTRICT COURT

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ATTORNEYS EYES ONLY

VIACOM INTERNATIONAL INC., COMEDY PARTNERS, COUNTRY MUSIC TELEVISION, INC., PARAMOUNT PICTURES CORPORATION, and BLACK ENTERTAINMENT TELEVISION, LLC, Plaintiffs,	)	
vs. YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC., Defendants.	)	Case No 1:07CV02103
THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, BOURNE CO., et al. on behalf of themselves and all others similarly situated, Plaintiffs,	)	
vs. YOUTUBE, INC., YOUTUBE LLC, and GOOGLE, INC., Defendants.	)	Case No. 07CV03582

Deposition of VARUN KACHOLIA

Palo Alto, California

Friday, January 8, 2010

JOB NO. 18544

January 8, 2010

9:35 a.m.

VIDEOTAPED DEPOSITION OF VARUN KACHOLIA, held at the offices of Wilson Sonsini Goodrich & Rosati, 601 South California Avenue, Palo Alto, California, pursuant to Notice before Peppina Rayna Thompson, Certified Shorthand Reporter of the State of California.

A P P E A R A N C E S.

FOR THE VIACOM PLAINTIFFS:

JENNER & BLOCK, LLP
By: SARAH MAGUIRE, ESQ.
ALLISON CROWE, ESQ.
1009 New York Avenue, NW
Suite 900
Washington, DC 20001
202.639.6000
SMaguire@jenner.com

FOR THE CLASS PLAINTIFFS:

BERNSTEIN LITOWITZ BERGER & GROSSMAN
By: BENJAMIN GALDSTON, ESQ.
12481 High Bluff Drive
Suite 300
San Diego, California 92130
858.720.3188
beng@blbglaw.com

FOR THE DEFENDANTS GOOGLE/YOUTUBE:

WILSON, SONSINI, GOODRICH & ROSATI
By: MICHAEL H. RUBIN, ESQ.
650 Page Mill Road
Palo Alto, California 94304
650.493.9300
mrubin@wsgr.com

ALSO PRESENT:

WILLIAM TRUELOVE

ARMANDO CARRASCO, Videographer

16:00:00 MR. GALDSTON: (Nods head)

Q So there's --

A They do not consult each other. They work in parallel.

Q Very good, that's helpful.

Similarly, on the right-hand side occasionally you see advertisements that are returned in response to a query. And I'd ask the same question: Is there some functional connection between the search functionality and the advertising that's returned?

A It's -- do you mean advertising which is not Promoted Videos?

Q Correct.

A What kind of advertising?

16:00:00 Q Well, I can show you an example if that would be helpful.

A Sure.

Q Okay.

MR. RUBIN: Again, this is beyond the scope of the deposition.

MR. GALDSTON: Sir, I'll hand you what's been previously marked in the deposition of Susie Ryder Exhibit 13.

(Plaintiffs' Exhibit 15 marked for identification)

16:00:00 MR. GALDSTON: If you would just take a moment to look at that, I will represent to you that my questions will only concern the advertisement on the right-hand side.

MR. RUBIN: Are you done with 14?

MR. GALDSTON: I am done with 14, right.

MR. RUBIN: And 4?

MR. GALDSTON: Correct.

THE WITNESS: Sir, what is your question here?

MR. GALDSTON:

Q It's really the same question that I was asking about the promoted videos.

When the user inputs a term, in this case English Premier League 2008, is there functional

16:00:00 connection between the search engine technology and the functionality that displays advertising on the right-hand side?

MR. RUBIN: Objection, vague, outside the scope of the deposition. I'm going to allow the witness to answer to establish that.

THE WITNESS: Okay. Our advertising system is a completely separate system.

MR. GALDSTON: Okay.

THE WITNESS: It runs independent of search. And search runs independent to advertising.

16:00:00 MR. GALDSTON: Okay. What I'm trying to understand is if within the search functionality is there a component when a user inputs a term like "English Premier League 2008" where the search functionality says let's go capture some promoted videos that are relevant or responsive to these search terms and put them on the right-hand side margin of the screen.

MR. RUBIN: Objection, asked and answered with respect to prior exhibit. The witness testified that that was not the case, and I'm not going to allow him to answer that question again.

It's well outside the scope of the deposition. Mr. Kacholia is here to testify about selecting and
16:00:00 ranking videos in response to search queries. He's testified --

MR. GALDSTON: Michael, it's really a foundational question.

MR. RUBIN: Let me finish.

MR. GALDSTON: If there's no foundations to be laid, it's beyond the scope. I'm just getting a yes or no.

MR. RUBIN: Let me finish the objection.

He's testified with respect to a prior exhibit that you are now were visiting that the other system is

16:00:00 separate, and he just testified that this system is separate.

MR. GALDSTON: Okay.

MR. RUBIN: Okay. He already -- he already -- you already established -- you already established that the foundation didn't exist and you have gone further.

MR. GALDSTON: I don't believe I have. But I'd like the witness to answer the question as opposed to your testimony.

MR. RUBIN: He did. He already did and you are asking the question again.

MR. GALDSTON: No, it's a different question.

THE WITNESS: You have asked the same question

16:00:00 five times now. You know, You can ask her to repeat the same thing for you.

MR. GALDSTON: Indulge me on this one last question, and we'll put the document away.

THE WITNESS: Sure. Please ask it again.

MR. GALDSTON: Sure.

Q When a user inputs a search term like "English Premier League 2008" does the search functionality have any functionality that determines whether, for example, a promoted video is displayed on the right-hand side versus an advertisement?

Schapiro Exhibit 160

To: "'Chad Hurley'" [redacted]
From: "Steve Chen" [redacted]
Cc: "'Jawed'" [redacted]
Bcc:
Received Date: 2005-04-04 09:03:42 GMT
Subject: RE: deploying to live

Okay, cool. I think we're all in agreement then.

So, Chad, if you can figure out a way to blend together the two, HotOrNot and Flickr, into one common site, let's hear it! One problem I saw with the channels was that it's not just about channels but like all the features/payment models would be different too, you know?

It seems like you're pretty opposed to the idea of two different sites though. Why is that? I'm curious.

Yahoo of videos, I like it.

-s

-----Original Message-----
From: Chad Hurley [redacted]
Sent: Sunday, April 03, 2005 10:37 PM
To: Steve Chen
Cc: 'Jawed'
Subject: Re: deploying to live

Yes, I see your point. I thought that our site would become the hub of short, personal videos and we could have channels to separate the differences. We would be the Yahoo of videos in a way.

Lets get together as soon as we can and really talk about this. But I think we are all on the same page to launch our current product as is. We need to figure out where we are going down the road.

-Chad

On Apr 3, 2005, at 8:12 PM, Steve Chen wrote:

> I agree with you on the most part. The primary motivation for
> creating a new site is the intended audiences and consequently the
> payments model. I feel that these differences are irreconciliable to
> the point where they can't be the same site.
>
> For HotOrNot, it's about dating. The intended audience are hip
> college kids with raging hormones trying to hook up. The payments
> model would be based on connections and interaction between members.
>
> For Flickr, it's about creativity and colleague acceptance. The
> intended audience would be designers, artists, and creative folks.
> The payments model would be based on hosting, backups, and management
> abilities.
>
> Those differences are the motivators for me to not merge the two.

> What do
> you think?
>
> -s
>
> -----Original Message-----
> From: Chad Hurley [redacted]
> Sent: Sunday, April 03, 2005 8:06 PM
> To: Steve Chen
> Cc: 'Jawed'
> Subject: Re: deploying to live
>
> I agree we launch the site as a dating/connection site, but evolve the
> site into more. I don't think we need to build another site
> necessarily.
>
> This is what I wanted to talk about at the next meeting. I don't know
> if Flickr would work as well for video. It's much more difficult to
> get the video on your computer, edit it, export it, and upload it to
> the web.
> Posting photos and typing daily blogs is sooo much more straight
> forward.
> Plus, photos are easier to browse, letting someone go through many in
> a short amount of time.
>
> If we solve some of these problems, I think it can work. But
> currently, I think we are going in the right direction... we are
> letting people put up short videos with a "purpose" and that add
> "value". Dating is a good start for our company, people want to see
> and be seen, and would be willing to pay to make a connection.
>
> We build on this idea of "purpose" and "value" videos to make more
> channels.
> Like, I was talking about at one meeting, a product channel would be a
> good extension... people would have the "purpose" of selling there
> product and we add "value" by hosting the video for the time the
> auction is live. So, for this channel, the payment scheme would be
> different, like a flat fee for each video hosted.
>
> Thoughts?
>
> -Chad
>
>
>
>
> On Apr 3, 2005, at 6:56 PM, Steve Chen wrote:
>
>> Chad, do you agree?
>>
>> If we agree, let's work on compiling a list of remaining big-ticket
>> todos we need to have for private 1.0 launch.
>>
>> In parallel, let's also start talking about the Flickr YouTube idea.
>> Chad,
>> do you have a good name for this already? :)
>>
>> -s

>>
>> -----Original Message-----
>> From: Jawed [redacted]
>> Sent: Sunday, April 03, 2005 6:47 PM
>> To: Steve Chen
>> Cc: 'Chad Hurley'
>> Subject: RE: deploying to live
>>
>> That makes the most sense... agreed.
>>
>>
>> Jawed
>>
>> _____
>> Jawed Karim http://jawed.com/
>>
>> On Sun, 3 Apr 2005, Steve Chen wrote:
>>
>>> So, you guys, what do you think about the strategy of finishing up
>>> YouTube as a Video Dating site. Then after we launch 1.0 YouTube,
>>> start brainstorming on all a Flickr-like Video site?
>>>
>>> -s
>>>
>>> -----Original Message-----
>>> From: Chad Hurley [redacted]
>>> Sent: Sunday, April 03, 2005 6:21 PM
>>> To: Steve Chen
>>> Cc: 'Jawed'
>>> Subject: Re: deploying to live
>>>
>>> Yeah, I know what you mean, I noticed the email chatter dropped
>>> off...
>>> I was busy last week with house crap, Jawed's family is in town,
>>> plus he just quit PayPal and is enjoying his time off, and you are
>>> buying a new place. So, I think last week wasn't good for anyone.
>>>
>>> But yes, lets get the energy back up this week. Let's get together
>>> for another meeting... I have some ideas on why we will be different
>>> than flickr.
>>>
>>> -Chad
>>>
>>>
>>>
>>> On Apr 3, 2005, at 5:00 PM, Steve Chen wrote:
>>>
>>>> Okay, I wanted to start thinking about it.
>>>>
>>>> What are the availability for you guys? I want to keep the energy
>>>> going for the next couple weeks until we launch.
>>>>
>>>> I'm going to be working on the convert scripts with the new
>>>> directory structure. Let me know what else you guys want me to
>>>> look at.
>>>>
>>>> -s
>>>>

>>>> -----Original Message-----
>>>> From: Jawed [redacted]
>>>> Sent: Sunday, April 03, 2005 11:20 AM
>>>> To: Steve Chen
>>>> Cc: Chad Hurley
>>>> Subject: Re: deploying to live
>>>>
>>>> I think we can look into it, but we definitely shouldn't buy or set
>>>> anything up. These are things that can be done on 24 hr notice.
>>>>
>>>> There will be a lot of options to discuss, so let's just wait until
>>>> we are actually nearly ready to deploy.
>>>>
>>>> We also still need a PayPal account to test the membership stuff
>>>> with.
>>>>
>>>> Jawed
>>>>
>>>> _____
>>>> Jawed Karim http://jawed.com/
>>>>
>>>> On Sun, 3 Apr 2005, Steve Chen wrote:
>>>>
>>>>> hey guys --
>>>>>
>>>>> should I start looking into getting us the live server and getting
>>>>> ready for deployment?
>>>>>
>>>>> -s
>>>>>
>>>>
>>>
>>>
>>>
>>
>

<?xml version="1.0" encoding="UTF-8"?>
<!DOCTYPE plist PUBLIC "-//Apple Computer//DTD PLIST 1.0//EN" "http://www.apple.com/DTDs/PropertyList-1.0.dtd">
<plist version="1.0">
<dict>
	<key>flags</key>
	<integer>8590195845</integer>
	<key>original-mailbox</key>
	<string>imap://m3092049@mail.chadhurley.com/INBOX/old-messages</string>
	<key>remote-id</key>
	<string>2750</string>
</dict>
</plist>

_____